



## **Nacimiento Project Commission Notice of Meeting and Agenda**

**Thursday, June 22, 2006 – 4:00 pm  
Templeton Community Services District Board Room  
420 Crocker Street, Templeton CA**

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- I. Call to Order, Roll Call, and Flag Salute
  - II. Public Comment  
This is the opportunity for members of the public to address the Commission on items that are not on the agenda, subject to a three minute time limit.
  - III. Meeting Notes from April 27, 2006  
(RECOMMEND APPROVAL)
  - IV. COMMISSION INFORMATION ITEMS – written reports with brief verbal overview by staff or consultant. No action is required.
    - a. Project Management Report
    - b. Project Schedule
    - c. Project Budget
  - V. PRESENTATIONS – no action required.
    - a. Potential Federal Funding Requirements
  - VI. COMMISSION ACTION ITEMS  
(No Subsequent Board of Supervisors Action Required)
    - a. Construction Management Procurement
    - b. Itemization of Environmental Mitigation Construction Cost
  - VII. COMMISSION ACTION ITEMS  
(Board of Supervisors Action is Subsequently Required)

- None -
  - VIII. FUTURE AGENDA ITEMS DESIRED BY COMMISSION

**Commissioners**

**Harry Ovitt, Chair**, SLO County  
Flood Control & Water  
Conservation District

**Dave Romero, Vice Chair**, City of  
San Luis Obispo

**David Brooks**, Templeton CSD

**Grigger Jones**, Atascadero MWC

**Frank Mecham**, City of El Paso  
de Robles

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**Next Commission meeting scheduled for  
Thursday, August 24, 2006, at 4:00 pm at  
Templeton Community Services District offices.**

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Nacimiento Project Commission  
June 22, 2006  
**Agenda Item III – Meeting Notes from April 27, 2006**

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**I. Call To Order, Roll Call and Flag Salute**

Chairman Ovitt convened the meeting at 4:00 pm.

Commissioners Present: Chairman Harry Ovitt, SLO County Flood Control & Water Conservation District  
Vice-Chairman Dave Romero, City of San Luis Obispo  
Frank Mecham, City of el Paso de Robles  
David Brooks, Templeton CSD  
Grigger Jones, Atascadero MWC

**II. Public Comment – (none)**

**III. Meeting Notes from February 16, 2006 Meeting**

Chairman Ovitt moved approval of the February 16, 2006, meeting notes; Commissioner Mecham seconded the motion. Passed unanimously.

**IV. Special Presentation**

Bob Meyer, Assistant General Manager of the Monterey County Water Resources Agency, gave a presentation describing the Salinas Valley Water Project. This project includes modifications to the existing Nacimiento Dam Spillway and the construction of the Salinas River Diversion Facility. Mr. Meyer described the goals of the project and its current status. The project is underway to more efficiently use the water from the Nacimiento Lake in place of well water in the Salinas Valley. Mr. Meyer also discussed the new seismic and environmental regulations that have put the Salinas Valley Water Project behind schedule and over budget. Presently, the schedule indicates construction of the spillway modifications to begin April 2007.

John Hollenbeck brought up the point that he originally wanted to coordinate the construction of the Nacimiento Dam Spillway Modifications with the Nacimiento Water Project Intake Pump Station which is located near the spillway. It is no longer certain whether or not this will be possible.

Chairman Ovitt asked if the Salinas Valley Water Project is cleared of the legal issues that it was experiencing. Bob Meyer answered that there are still court issues pending.

**V. Commission Information Items**

John Hollenbeck delivered the project management report. The appraisal firms are now under contract, however, Reeder Gilman & Borgquist needs to get their insurance information and coverage up to a higher level.

The 30-percent design phase has now been completed as well as the draft Preliminary Design Report. The project is now ready to work toward the 50-percent design level. Mr. Hollenbeck plans to issue a Request for Qualifications/Proposals for construction management by mid June to mid July.

The cost allocation program is almost completed. It is currently undergoing a quality check to determine the accuracy of the program. Once completed, letters will be forwarded to potential New Participants who have expressed interest.



John Hollenbeck reported that unfortunately the Nacimiento Water Project did not get chosen for Proposition 50 (Prop-50) funding; however, everything is in order to make another proposal during the next round which will take place in 2007. The Nacimiento Water Project was number 17 on the list this year and 16 were chosen, thus Mr. Hollenbeck believes that we are an excellent prospect for the 2007 Prop-50 selection. Also, Mr. Hollenbeck is awaiting a response from Congressman Thomas' office regarding the request for \$2 million for the Nacimiento project under the EPA State & Tribal Grant program.

An information packet concerning the right-of-way process is being finalized and will be distributed to all of the land owners along the Nacimiento Project pipeline. Commissioner Brooks asked if a copy of this packet will be available to the Commission as well. Mr. Hollenbeck answered that the Commission will get a copy of the packet. Mr. Hollenbeck also noted that the ESA permit requests were submitted April 21, 2006.

Mr. Hollenbeck noted that more geotechnical work was necessary at the intake site. The original samples did not yield satisfactory results and more research must be done to allow for alignment and construction. There is also more geotechnical work needed to be done at the pipe alignment points. This added work could add an estimated \$100,000 to \$170,000 to the cost for geotechnical work.

Mr. Hollenbeck noted that the Value Engineering (VE) team used only half of the budget expected and produced some valuable ideas.

Commissioner Mecham reminded the Commission that Monterey County is currently renegotiating their contract with PG&E and that this new contract could possibly benefit the Nacimiento Water Project. There was also a discussion considering the possible use of the small hydroelectric plant to lower the energy costs. Mr. Hollenbeck noted that he will have a meeting with PG&E as well to discuss how to get power to the intake station and if using the hydro plant is a possibility.

Mr. Hollenbeck also noted that there will be a quarterly coordination meeting on May 16, 2006 with Camp Roberts.

## **VI. Presentations**

Steve Foellmi, Black & Veatch's Project Manager of the design, gave a presentation to the Commission on the draft Preliminary Design Report, the Value Engineering Session, the 30-percent opinion of probable construction cost, and an outline of next steps.

Mr. Foellmi noted that the final Project Design Report (PDR) is nearing completion. Mr. Foellmi stated that his team is ready to begin the 50-percent design task. He also discussed the different options for construction contracts. It can be done as one single contract or as several, smaller subcontracts. Mr. Foellmi suggested four to five contracts due to the specialty work involved with certain sections of the project.

The Value Engineering (VE) session generated 52-proposals. While not all are reasonable for implementation into the Project, many have been judged feasible. Mr. Foellmi discussed four possible VE suggestions and their potential savings to the project. The four suggestions are: eliminating two horizontal microtunnels at the intake, reducing the capacity of the storage tanks along the pipeline, the off-road section of pipe in Camp Roberts, and a relocation of the Camp Roberts pump station to near Paso Robles. Mr. Foellmi noted that there is a possibility to save between \$12M to \$17M with these suggestions. Mr. Hollenbeck noted that he and Mr. Foellmi needed to meet to discuss the design phase cost associated with implementation of these VE suggestions, and that such costs would be negotiated through the design contingency.



Mr. Foellmi presented the construction cost opinion presented in the draft Preliminary Design Report. The construction cost estimate, including contingency and escalation to the mid-point of construction (June 2008) is \$145.4M. Added to the other budget line items for the Project, the total Nacimiento Project Construction Cost is estimated at \$177.8M, as compared to the budget of \$150M (all values are June 2008 dollars). Mr. Foellmi presented a bar chart showing the downward trend of the Nacimiento Project Construction Cost estimate since the first estimate B&V performed in September 2005.

Mr. Foellmi identified the next steps to include staying on schedule (a Project cost increase of about \$400,000 per month could be realized if the project schedule slips), optimizing the contracting plan, and minimizing construction risk.

**VII. Commission Action Items (No Board of Supervisors Subsequent Action) – (none)**

**VIII. Commission Action Items (Board of Supervisors Subsequent Action) – (none)**

**IX. Future Agenda Items Desired by Commission - (none)**

Chairman Ovitt adjourned the meeting at 5:25 pm.

Submitted by Matthew Mulkay and John Hollenbeck



Nacimiento Project Commission  
June 22, 2006  
**Agenda Item IV.a – Project Management Report**  
(Information Only – No Action Required)

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**PROJECT RESOURCES**

**Appraisal Services**

Reeder Gilman & Borgquist provided evidence of \$1-million professional liability insurance, falling short of the \$2 million stated in the Agreement executed on March 28, 2006. An amendment to their appraisal contract, approved by the Board of Supervisors on June 13, 2006, adjusted their professional liability insurance coverage to \$1-million in exchange for a fee adjustment commensurate with District staff and consultant time spent resolving this issue. The adjustment was \$3,075. Schenberger, Taylor, McCormick and Jecker had requested and received approval during agreement negotiations for a coverage limit of \$1-million.

**Construction Management**

See Agenda Item VI.a for a discussion on Construction Management.

**PROJECT ISSUES**

**Prospective NWP Participants**

The updated Project costs as presented to the Commission at the April 27, 2006, meeting were used to develop delivered water cost estimates for potential New Participants. Subsequently, letters were sent to the following interested parties, and copies were sent to each Commissioner via the Technical Support Group. Letters to the Lewis Pollard Family Trust and County Service Area 10A, both parties were in the Project's Environmental Impact Report, are pending and will be mailed soon.

**Potential New Participant Listed in Project's Environmental Impact Report (EIR)**

- National Guard, Camp Roberts and Camp San Luis Obispo
- Heritage Ranch Community Services District
- Santa Margarita Ranch Mutual Water Company

**Potential New Participant Not Listed in Project's EIR**

- Paso Robles Beach Water Association
- Mr. Jim Maino (Cayucos area)

Project staff will reach out to each of the potential New Participants who were listed in the Project's EIR to determine their desires to move forward. New Participants who were not listed in the EIR will need to receive CEQA determinations on their specific projects before being considered for participation in the Project.



Delivery Entitlement Contract development is underway with County Service Area 10A and the Lewis Pollard Family Trust. The Project Manager expects to have the Contract executed by late summer this year.

The cost to each of the Initial Participants associated with carrying the Reserved Capacity would be reduced as New Participants join the Project. The cost reduction varies with various combinations of New Participants.

The National Guard has submitted a suggestion to exchange a water supply in exchange for easement through Camp Roberts. This was discussed with the TSG and was determined not to be beneficial to the project. A letter will be mailed to the National Guard outlining the TSG's assessment of the water-easement proposal.

### **Status of Financial Issues**

The Project Finance Team (representatives from PFM, UBS and Fulbright & Jaworski, and District staff) held a conference call on June 1, 2006, to discuss the steps associated with revenue bond issuance. John Hollenbeck presented a summary of the Project's schedule and budget, advising that the Project is on-schedule for issuing construction bid documents in April 2007, and that the Project budget is likely to be about \$180M, or \$30M greater than previously estimated.

### **Water Delivery Entitlement Contract Amendment No. 2**

Proposed Amendment No. 2 addresses, among other things, Commission membership and steps to limit the size of the Commission over time. The District staff is coordinating comments with County Counsel and bond counsel. A draft will be issued to the Technical Support Group when available.

### **Status of Project Delivery Team Activities**

**Right of way** – The first set of pipeline alignment documents were submitted to Cannon Associates for preparation of a sample legal description. Once the format is approved, the designers will continue to submit alignment documents for the affected private properties and the surveyors will generate legal descriptions. This in turn will allow appraisers to proceed with valuations.

**Environmental Permitting** – ESA is underway with the EIR addendum and awaits PG&E's confirmation of power extension so that may be characterized in the CEQA work. ESA remains in contact with regulators regarding the Project permit applications. They are also progressing with the various mitigation and restoration plans as required by the Project EIR.

**Design Engineering** – Black & Veatch is preparing the final Preliminary Design Report in response to comments received by both the District and Participants. One area of discussion with the TSG pertains to anticipated Nacimiento deliveries in the initial years of project operations. The pace of deliveries will influence projected energy usage and possibly pump selection. In other design efforts, they are firming up pipeline alignment through private properties and making progress on the 50-percent design progress submittal.



The designers will also seek TSG input on the bidding strategy (i.e. one large contract vs. multiple, smaller construction), an issue that should be resolved in advance of contract negotiations with the construction management team.

**Geotechnical Services:** Geomatrix has mobilized the rotary wash drilling rig to perform subsurface exploration within the Salinas River. The subsurface drilling at the intake facility will occur in late June. Test pits will also be conducted in late June. A Value Engineering proposal to relocate the Camp Roberts Pump Station to the southern side of Paso Robles has been adopted in principal; however, geotechnical concerns regarding liquefiable soils have delayed the selection of the site for the pump station. In addition, the site selected in a meeting with the land owner happens to be very near the Rinconada fault zone. Potential new locations have been identified and input from the land owner is pending.

**Survey Services:** Cannon Associates submitted the first set of cadastral (property line) information to designers. They met on June 1, 2006, to discuss that cadastral information, in particular the lack of public road right-of-way in some locations. Cannon is to further pursue County documentation to establish the limits of public right-of-way. Along a segment of Wellsona Road, the cadastral survey, when mapped on the Project's base mapping, indicated the public rights-of-way is offset from the actual roadway alignment. Cannon is investigating if the legal rights-of-way are different than the prescriptive rights-of-way indicated by the roadway surface.

## **Outside Agency Issues**

**PG&E Coordination.** The Project Manager and Project Engineer met with PG&E staff on May 1, 2006, to discuss power planning. PG&E described the manner in which the Project's connection fee would be calculated (i.e. based largely on the first 5 year's of actual energy usage). PG&E has yet to reply to the District's letter dated March 31, 2006, and has yet to confirm a timeline for completing the necessary power extensions.

The District confirmed via a letter to PG&E on May 15, 2006, that the Camp Roberts Pump Station has been replaced by the proposed Santa Ysabel Pump Station, and the Project Manager agreed to submit revised power usage projections. After receiving the electrical projections from the District, PG&E submitted a letter, received June 2, 2006, which identifies the economic advantages of supplying the pump stations with Primary Voltage (i.e., the Project owns the step-down transformers) versus being supplied them with Secondary Voltage (i.e., PG&E own the transformers).

**Monterey County Water Resources Agency.** Site Access Authorization Agreement No. 2, authorizing further work at the proposed intake location, was submitted to all parties on June 7, 2006. This clears the way for subsequent geotechnical work at this critical location.

The Agency is still reviewing the proposed amendment to the 1959 Master Agreement. The amendment addresses the location of the new outlet works for the Project.

**Camp Roberts.** District and Participant representatives met with military personnel on May 16, 2006, at Camp Roberts to discuss the Project and to check on progress of the Report of Availability, a document that is needed to acquire an easement across the base. The Project Manager confirmed that the proposed Camp Roberts Pump Station is to be relocated and drew attention to the preliminary plans dated February 22, 2006, as current illustrations of the requested easement. He submitted acreage



requests for both temporary and “permanent” easements through the camp and suggested that the military could proceed with the easement valuation step/Report of Availability.

The District also submitted estimates of delivered water costs to both Camp Roberts and Camp San Luis Obispo.



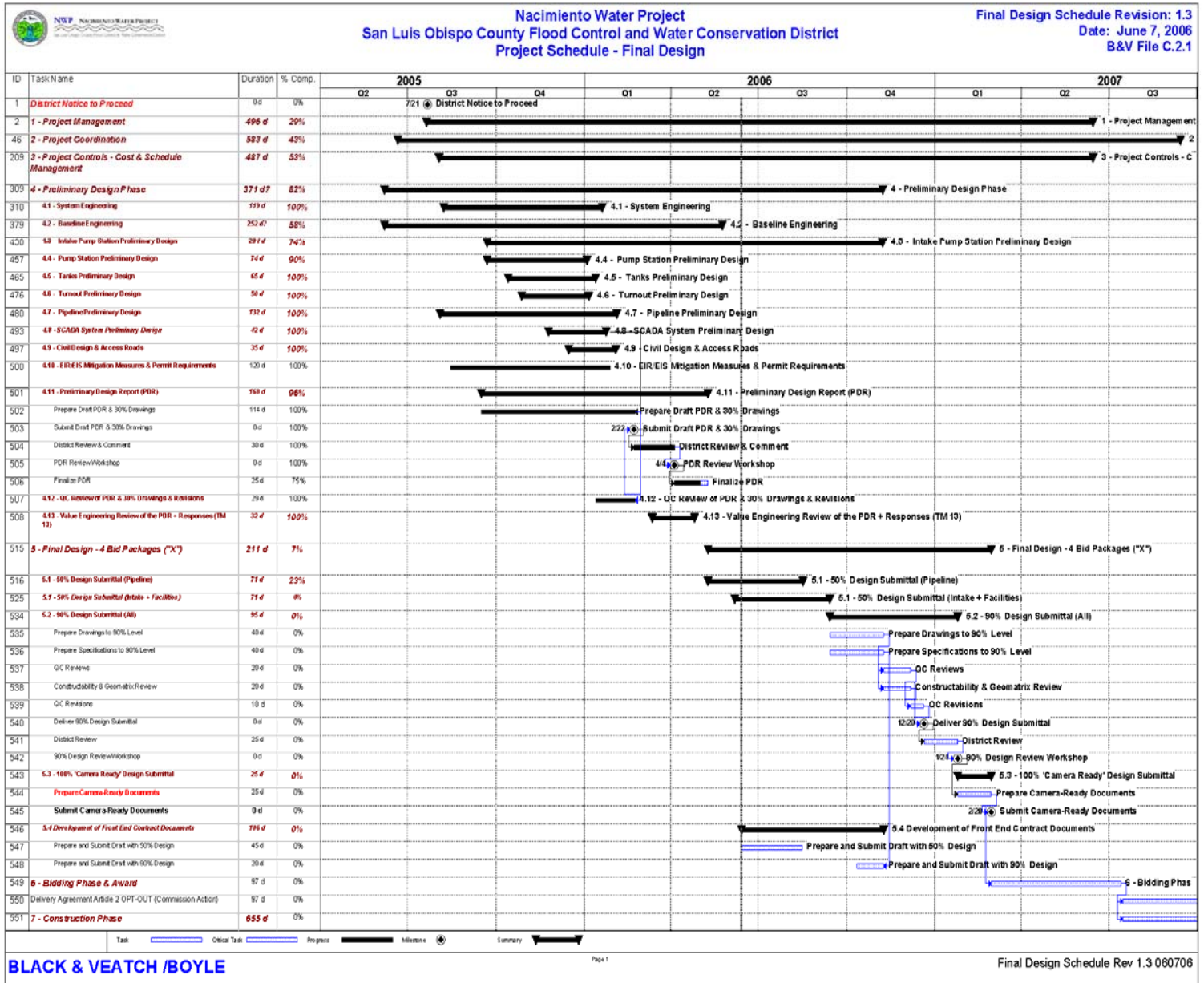


# Nacimientto Project Commission

## June 22, 2006

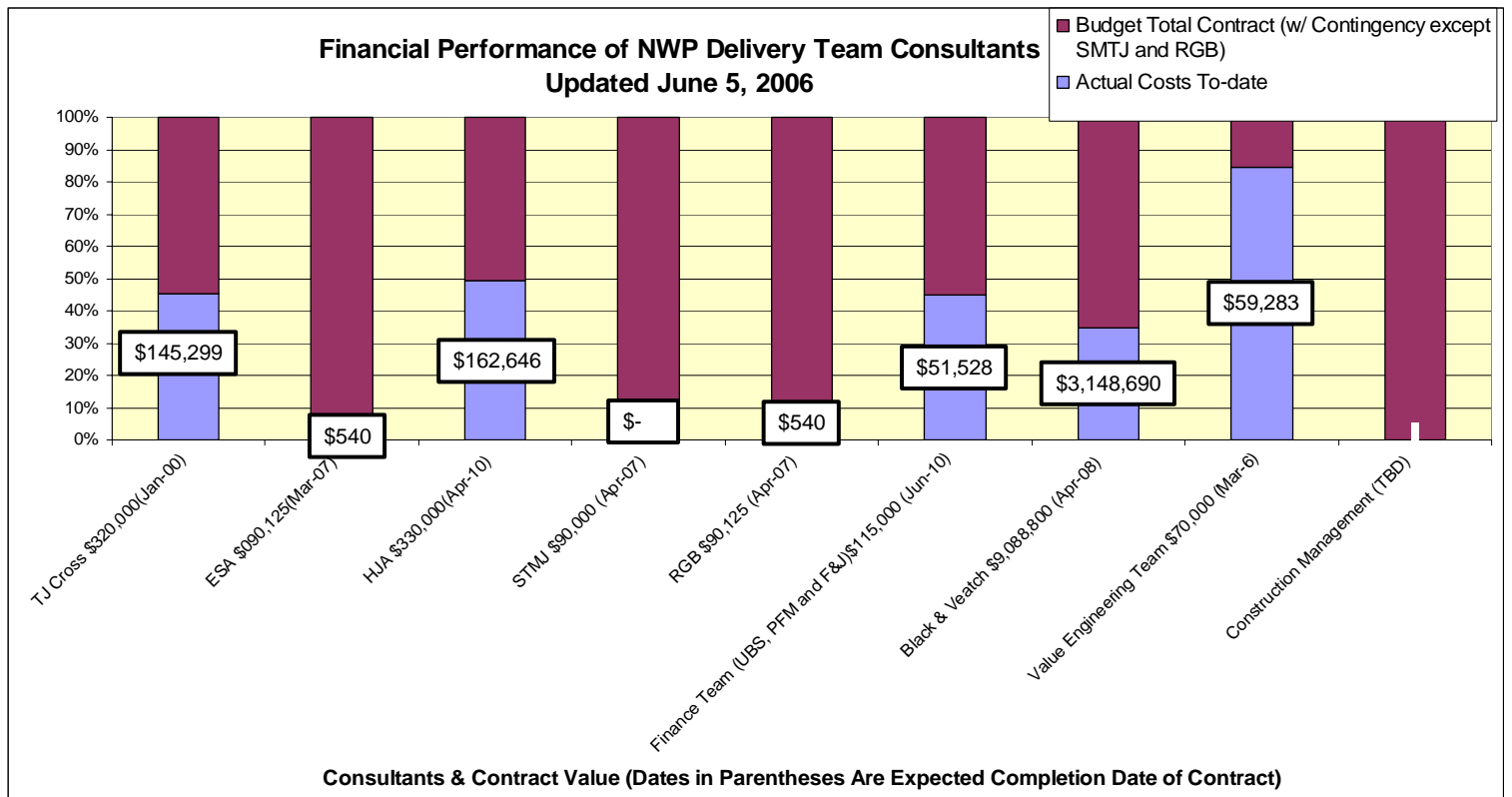
### Agenda Item IV.b – Project Schedule (Information Only – No Action Required)

Project progress is depicted below. Upcoming milestones will be preparation of legal descriptions so that appraisal work can begin, submittal of the final Preliminary Design Report, and preparation of the 50-percent design submittal.



**Nacimientto Project Commission**  
**June 22, 2006**  
**Agenda Item IV.c – Project Budget**  
**(Information Only – No Action Required)**

The design phase activities remain within budget. Refer to the bar chart below and the attached budget status report for specific information.



**Discussion on Project Risk and the Nacimientto Project Construction Cost**

The Nacimientto Project Construction Cost is currently estimated to be about \$30M over the contractual amount of \$150M. The Project Manager and the Technical Support Group want to inform the Commission about the risks associated with this situation. The discussion within this portion of the Project Management Report will include:

- Contractual Obligation to Project Budget
- Current Estimate of Nacimientto Project Construction Cost
- Understanding the Risk to the Project

The TSG and District staff will continue to evaluate the situation and will report to the Commission as more information becomes available.

**Contractual Obligation to Project Budget**

The Nacimientto Project Construction Cost is all the costs to construct the Nacimientto Facilities, and per Article 2(B) of the Water Delivery Entitlement Contract (Contract), shall be \$150M or less;



otherwise, during the construction bidding period the Participants can evaluate the Project costs and decide whether to continue with the Project or option-out (opt-out) of the Contract. This provision of the Contract provides an opportunity for the Participants to conduct a business evaluation and make a business decision at a critical junction of the Project; however, this same provision introduces risk to several elements of the Project.

### **Current Estimate of Nacimiento Project Construction Cost**

The Nacimiento Project Construction Cost includes many line items (see the Budget Report at the end of Agenda Item IV.c). Two of these line items are the Construction Contracts and the Construction Phase Contingency and Reserve. At the April 27, 2006, Commission meeting, Black & Veatch (B&V) presented the 30-percent design level opinion of probable construction cost, including contingency, estimated at \$145.4M (escalated to the mid-point of construction, or June 2008). The line item budget for this activity is \$117.2M (combined Construction of \$93.0M and Construction Contingency of \$24.2M). When incorporating the 30-percent opinion of probable construction cost into the other Project budget line items, the total Nacimiento Project Construction Costs is estimated at \$177.8M (June 2008\$), or nominally about \$30M over budget.

At the same meeting, B&V also presented the outcome of the Value Engineering study, and identified a range of \$12- to \$17M in potential construction cost savings. Many of the VE study suggestions are being implemented into the design, but the cost reduction impacts will not be computed until the completion of the 50-percent design activity (July/August 2006).

The construction cost line item is the only budget line item which is significantly over budget. Staff is evaluating the land acquisition budget line item which also might be over budget. All other line items are tracking on- or below-budget. In aggregate, the Project budget can be summarized as shown in the table inset. A fiber optic addition is shown that was implemented after the 30-percent construction estimate was completed. The assumptions embedded within the table are:

- The value engineering reductions will be realized.
- Construction cost estimates and contingency are accurate estimates that will be realized during bidding.
- Land acquisition budget estimates have not been verified, but are assumed to increase and are not reflected in the values presented.

<b>Item</b>	<b>Value</b>
Nacimiento Project Construction Cost @ 30% Design (06/2008\$)	\$177.8M
Fiber Optics (post-30% addition)	\$1.5M
Assumed Value Engineering Reduction Potential	<\$12.0M>
Subtotal (06/2008\$)	\$167.3M
Nacimiento Project Construction Cost Budget (06/2008\$)	\$150.0M
Nominal Amount Over Budget (rounded up)	\$18M

### **Understanding the Risk to the Project**

The term “risk” used within this discussion refers to increased possibility of an undesirable outcome associated with the Project. The range of undesirable outcomes spans between (1) the Project being over budget but is still completed, to (2) Project is cancelled. While the latter risk is extreme, it may seem on the surface to have a low probability of occurrence. The Project Manager, however, believes it is essential for the Commission to understand risk factors that exist with a Project that currently appears to be over the contractual budget limit. Furthermore, the Project Manager does not judge the latter range of undesirable outcomes to be that low in probability.

Risk factors that affect the Project when the Nacimiento Project Construction Cost is greater than the contractual budget limit include:

- Increased risk of politically motivated opting-out by Participant's governing authorities. The current governing authorities are generally in favor of the Project, but the Project would have increased risk of cancellation should any of the governing authorities have a significant change from the current pro-Project position to an anti-Project position.
- Construction contractors will judge the Project's progression into the Construction Phase as risky, and they may make a "no-go" decision to bid the Project. Example of a local project that was judged too risky by contractors to bid is the Los Osos sewer project, which received only one-bid that was significantly higher than the engineer's estimate.
- The bond rating could be lower (investor's judge lower bond ratings to indicate higher investment risk).
- One or more Participants opt-out, which stop or significantly delays the construction of the Project. Delays add construction cost and introduce inefficiencies in performance by the design and construction management firms. B&V currently estimates a \$400,000 monthly increase in costs associated with delaying the completion of the Project.
- Opting-out and permanently delaying the Project will result in the loss of the Design Phase costs expended by the Participants.
- Opt-out delays will increase the risk of Participants needing to fund an even larger valued Project.
- Opting-out of the Project will change the water portfolio of each Participant.

**Nacimiento Water Project  
Project Budget Reporting  
Report Ending Period: 5/31/06**

	Initial Budget	Revised Budget as Approved February 2006	Cost to Date thru 5/31/06	Remaining Budget	Projected Total Cost as of 12/20/05	Projected Variance (Budget Vs. Cost)	Comments
<b>Design Phase Anticipated Costs</b>							
Project Management	\$1,250,000	\$1,875,000	\$1,113,687	\$761,313	\$1,875,000	\$0	Includes County Project Manager, VE, support staff, consultant support, and legal fees.
Environmental	\$800,000	\$899,667	\$578,619	\$321,048	\$899,667	\$0	ESA-Includes design assistance, permit applications, agency coordination.
PG&E Service Extension	\$1,100,000	\$1,100,000	\$5,170	\$1,094,830	\$1,100,000	\$0	Initial estimate to extend power to proposed facilities
Right of Way Consulting Services	\$500,000	\$635,000	\$238,819	\$396,181	\$635,000	\$0	Hamner-Jewell contract plus allowance for appraisal and title reports by others
Property Acquisition	\$2,000,000	\$2,000,000	\$25,233	\$1,974,767	\$2,000,000	\$0	
Construction Mgt/Constructability Review	\$2,000,000	\$2,000,000		\$2,000,000	\$2,000,000	\$0	Initial CM services authorization
Engineering Design (Includes geotechnical & survey)	\$10,250,000	\$9,650,000	\$3,178,425	\$6,471,575	\$9,088,800	\$561,200	Black and Veatch Corporation
Finance	\$0	\$115,000		\$115,000	\$115,000	\$0	PFM, UBS, and Fulbright&Jaworski
					Total Variance=	\$561,200	
Design Phase Budget Reserve	\$1,000,000	\$625,333		\$625,333	\$1,186,533		
SUMMARY - DESIGN PHASE	\$18,900,000	\$18,900,000	\$5,139,953	\$13,760,047	\$18,900,000		
<b>Construction Phase Anticipated Costs</b>							
Project Management	\$2,325,000	\$2,712,500		\$2,712,500	\$2,712,500	\$0	2/05-extended +4 months
							Contingency item (estimated as approximately 4% of construction cost) for pipeline realignment, special construction techniques, and other costs incurred due to unforeseen environmental issues
Environmental Mitigation	\$3,700,000	\$3,720,000		\$3,720,000	\$3,720,000	\$0	
Materials Testing	\$300,000	\$300,000		\$300,000	\$300,000	\$0	
Construction Management	\$4,200,000	\$4,185,000		\$4,185,000	\$4,185,000	\$0	Est. at 4.5% of construction cost, inc design phase work
							Includes cost for cultural and biological monitors during construction
Environmental Monitoring	\$1,800,000	\$1,800,000		\$1,800,000	\$1,800,000	\$0	
Construction Contracts	\$93,000,000	\$93,000,000		\$93,000,000	\$93,000,000	\$0	
Construction Phase Contingency and Reserve	\$24,231,000	\$23,838,500		\$23,838,500	\$23,838,500	\$0	
SUMMARY - CONST. PHASE	\$129,556,000	\$129,556,000	\$0	\$129,556,000	\$129,556,000	\$0	
<b>Prior Expenses</b>							
Advance Expenditures	\$513,000	\$513,000		\$513,000	\$513,000	\$0	
							Includes construction of Nacimiento Water Project pipeline section through Cuesta Tunnel
Cuesta Tunnel	\$1,031,000	\$1,031,000		\$1,031,000	\$1,031,000	\$0	
				\$0	\$0	\$0	
TOTAL PROJECT*	\$150,000,000	\$150,000,000	\$5,139,953	\$144,860,047	\$150,000,000	\$561,200	

\* Rounded to \$100k

**Memorandum(s):**

Positive Projected Variance indicates costs are under the revised line item budget.

Recent Update: 6/14/06

Nacimiento Project Commission  
June 22, 2006  
**Agenda Item V.a. – Potential Federal Funding Requirements**  
(Presentation - No Action Required)

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**TO:** Nacimiento Project Commission  
**FROM:** John R. Hollenbeck, P.E., Nacimiento Project Manager  
**VIA:** Noel King, Director, Department of Public Works  
**DATE:** June 22, 2006

During previous Commission meetings, your Commission heard discussions on the possibility of securing federal funding for a portion of the Nacimiento Water Project, and your Commission inquired about what mandated requirements, if any, would be asked of the Project. This staff report is a summary of the known requirements.

**Potential Federal Funding Sources**

In July 2005, Congressman Thomas succeeded in securing a \$25 million authorization for Water Resources Development Act funding. This is the first step in monies being appropriated to the Project.

In March 2006, Congressman Thomas' office sponsored a \$2 million request from the EPA State & Tribal Grant program on behalf of the Project. This comes with a 45-percent local match requirement and the request must be resubmitted in Nov/Dec 2006 once the newly elected congressman is seated. Further conditions are being researched now.

**Potential Federal Funding Requirements**

Funding requirements can sometime be problematic to a project. Examples of possible issues include schedule delays and re-work of previous design efforts to meet a mandated standard. The requirements are expressed in writing to the recipient for their use in understanding the risks and rewards to their project. At this time, the Project has not received any written description of possible requirements, and when, or if, monies become available, the requirements will be evaluated and a determination made at that time if the federal funds are beneficiary to the Project.

**Water Resources Development Act.** In early 2005, District staff looked into the terms of the Water Resources Development Act funding and learned that such federal money is actually an appropriation to the Army Corps of Engineers. The Army Corps would then mobilize their own technical and/or construction resources on our behalf. A memorandum regarding procurement steps is **inserted** following this staff report.

Procurement would follow federal guidelines (such as MBE/WBE requirements) and may affect our approach to property appraisals. For example, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act" effective February 2005 require a formal federal review of



appraisals before offers are made. Design criteria would also likely be set by Army Corps standards.

Of concern would be schedule adherence. The Army Corps would work on the project “until the appropriated funds run out”, then go on hold until the next round of appropriations. This requirement may introduce certain problematic requirements and delays. Certain administrative delays appear to be ever present with this form of federal funding and would represent an increased administration cost to the Project’s execution.

**EPA State & Tribal Grant.** Per a conversation with Ms. Cheryl McGovern, the EPA Grant Coordinator for our region, a few requirements mentioned are:

- a. 45-percent matching funds.
- b. Required inspections by the Army Corp of Engineers.
- c. Must meet NEPA requirements.
- d. Quarterly Progress Reports.
- e. Specific Work and Budgeting Schedule.

Ms. McGovern also explained the steps required to receive the grant monies.

Step 1 – Congress approves the project for STAG funding.

Step 2 – A Project Officer is selected from the EPA office.

Step 3 – The Project Officer sends a letter describing the specific requirements pertaining to the project.

Step 4 – The Project Manager submits the design and all necessary documentation for approval.

Step 5 – The Project Manager applies for the Grant.

Step 6 – One to two months later, the Grant is approved and the monies awarded.

Step 7 – The Project Manager has three weeks to accept or reject the grant.

## **Conclusion**

No action is needed at this time; however, prior to accepting federal funding, careful consideration would be given to increased administration cost and time delays.







## **MEMORANDUM**

**DATE:** March 1, 2005

**TO:** Paavo Ogren, SLO County Flood Control & Water Conservation District

**FROM:** Christine Halley, TJCross Engineers

**SUBJECT: Procurement Steps Associated with Federal Funding**

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I spoke to Ed Demesa, Plan Formulation Branch Chief for the Army Corps of Engineers (213-452-3820) regarding procurement steps associated with federal project funding. He described the normal steps as:

1. Authority is granted at federal level for Army Corps to work on the project.
2. Appropriations are then made for the project.
3. Army Corps staff participates in scoping the project and costs are shared 75/25%.
4. Licensed contractors already under contract with the Army Corps would construct the facilities at a pace consistent with allocated federal funding.

Mr. Demesa explained that federal funding normally comes "in a stream" and projects are built over many years depending on the flow of funding. He mentioned the Harbor South Bay water recycling project as an example of a project funded in this manner. The system is evidently expanded as additional funds are made available over time. He also mentioned that the Army Corps is involved in the Cambria Community Services District desalination project and another project for Eastern Municipal Utilities District.

I asked Mr. Demesa about reimbursement for costs incurred for the Nacimiento project prior to federal appropriations being authorized. He confirmed that no such costs are reimbursable and went on to say that it is not a matter of following federal procurement steps, rather, the Army Corps staff itself would provide, say, design services and the Army Corps's contractor(s) would actually build the project as funds are appropriated.

He also opined that a full federal funding is unlikely based on projects that he has seen in the past. Rather, perhaps a portion of the pipeline may receive appropriations and would therefore be built by Army Corps contractors.

Based on this understanding, it appears as though we should proceed with design and continue on a parallel path with securing federal appropriations, then work with the Army Corps to build reaches of the pipeline as funds are made available.

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### **Bakersfield**

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Nacimiento Project Commission  
June 22, 2006  
**Agenda Item VI.a – Construction Management Procurement**  
(Presentation - No Action Required)

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**TO:** Nacimiento Project Commission  
**FROM:** John R. Hollenbeck, P.E., Nacimiento Project Manager  
**VIA:** Noel King, Director, Department of Public Works  
**DATE:** June 22, 2006

**Recommendation**

Recommend that the Commission approve the process of selecting the Construction Management firm and the Environmental Monitoring firm independently, then at the discretion of the Project Manager, assign the Environmental Monitoring firm's contract to the Construction Management firm.

**Discussion**

At the May 11, 2006, TSG meeting, John Hollenbeck reported that interested construction management (CM) firms are making inquiries and sought TSG input on the approach to procurement. The CM firm will be responsible for construction inspection, assessing permit compliance, change order evaluation, reviewing contractor pay requests, and many other construction phase activities. Options for procuring CM services range from requesting full fee proposals as the first step in team evaluation to requesting qualifications statements as an initial step. The TSG considered issues such as timing, coordination, and other factors and advised that a request for qualifications be issued, followed by a short-listing of firms who would be asked to submit fee proposals. The short-list schedule is to be issued with the RFQ. John Hollenbeck stated his intent to have the CM under contract in time to participate in B&V's "internal" constructability review, now scheduled for October 2006.

Another aspect of construction phase services under discussion is the environmental monitoring. Various biologists, archaeologists, and Native American representatives will observe construction activities with regard to permit compliance, adherence to mitigations, and response to situations encountered in the field. Retaining the environmental monitors could be done in one of three ways:

1. **Hire environmental monitors under a separate contract** – This approach would involve evaluating proposals from monitoring teams, retaining the team deemed most qualified to perform the work, and then have District staff manage the environmental monitors. The advantage of this approach is that it allows for comparison of the merits of various environmental monitoring teams. The disadvantage is that District staff would have to settle

perceived disputes between the environmental monitors, contractors, and the construction manager. Administration and dispute resolution could be time-consuming and costly.

2. **Include environmental monitoring as part of CM request** – This approach would involve including environmental monitoring as part of the CM scope of services. The advantage would be retaining a single, full service team to provide all construction phase support. The disadvantage would be a perceived lack of neutrality on the part of the environmental staff. Further, the more qualified CM staff may not be teamed with the most qualified environmental team.
3. **Hire environmental monitors separately, and then assign the contract to the CM firm** – This approach would involve two parallel procurements, one for the CM team and another for the environmental monitoring team. Each would be selected based on qualifications and approach, then the environmental monitoring contract would be assigned to the CM firm. A similar approach was followed in assigning the surveying and geotechnical contracts to the design firm. The advantages of this approach are that it allows the merits of each discipline to be evaluated independently, avoiding the possibility of making concessions in selecting an overall CM team, and it structures the construction team to work as a single unit. The disadvantage is encountering a possible stumbling block at the time of contract assignment due to irreconcilable business differences. In that case, the District could proceed with administering separate contracts as described above.

A request for qualifications (RFQ) is currently being prepared according to Item 3 above and the issuance of the RFQ for the CM Services is expected in early July 2006. The Environmental Monitoring procurement has not been scheduled, but is expected to be later this year or early next since this service is not needed until the Construction Phase.

The CM Services will occur during both the Design and Construction Phases; therefore, two Notices to Proceed will be issued to the CM Firm: one during the Design Phase for services to support the constructability review of the design documents, and one during the Construction Phase after the successful passing of the opt-out period.

### **Other Agency Involvement**

None.

### **Financial Considerations**

Nearly \$6.2 million has been budgeted for CM project support. An additional \$1.8 million has been budgeted for environmental monitoring during construction.

### **Results**

In consideration of the above discussion, it is proposed that the third approach outlined above, which is to follow two parallel procurements, then assign the environmental monitoring contract to the selected CM firm be selected to retain the environmental monitors.

**Nacimiento Project Commission**  
**June 22, 2006**  
**Agenda Item VI.b – Itemization of the Environmental Mitigation**  
**Construction Cost**  
(Commission Action Item – No Subsequent Board of Supervisor Action)

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**TO: Nacimiento Project Commission**

**FROM: John R. Hollenbeck, P.E., Nacimiento Project Manager**

**VIA: Noel King, Director, Department of Public Works**

**DATE: June 22, 2006**

**Recommendation**

Recommend that the Commission approve the list of Environmental Mitigation Construction Cost items described herein.

**Discussion**

Contract Article 16(C)(3) describes the manner in which the Environmental Mitigation Construction Cost component is allocated to each Participant. The Cost Allocation Model is designed to follow this method (i.e. to allocate costs based on Delivery Entitlement Share); however, the Contracts do not specify what items comprise the Environmental Mitigation Construction Cost.

Many environmental mitigation measures specified in the Project's Environmental Impact Report (EIR) may be considered part of standard construction practices in California. Examples of this are dust control, erosion control measures, fencing around sensitive areas, stockpiling of topsoil, and protection measures for kit fox. Considering that these measures are standard practice and not distinguishable as separate pay items, these are not proposed to be tracked separately for inclusion in the Environmental Mitigation Construction Cost. The Technical Support Group (TSG) discussed this topic at their May 11, 2006, meeting and advised that the following environmental activities should be included in the tabulation of the Environmental Mitigation Construction Cost:

1. Pre-construction surveys stipulated in the Project EIR and as permit conditions for San Joaquin Kit Fox and special status bird species, mapping of oak woodlands, etc.
2. Environmental monitoring during construction including project biologists, Certified Industrial Hygienist, qualified Restoration Biologist and Native Plant Horticulturalist, and paleontological and Native American monitoring.

3. Environmental education programs for construction personnel.
4. Required environmental mitigation measures such as emergency repairs to erosion control features, disposal of any hazardous materials encountered, cultural or paleontological resource site data recovery and Phase II testing.
5. Periodic reporting to regulatory agencies.
6. Support services associated with alleged permit violations including construction delays, work stoppages, or move-arounds that could result from biological or cultural resource discoveries or agency actions.
7. Specialized emissions equipment on construction vehicles such as diesel oxidation catalysts, catalyzed diesel particulate filters, catalytic soot filters, etc.)
8. “Mitigation bank” fees and post-construction compliance such as ongoing vegetation maintenance, wetland replacement, and noxious weed surveys, in particular those performed by outside contractors.
9. All similarly related items yet to be determined will be managed in the same manner as described above.

Per the delivery entitlement contract Article 16(C)(3), this set of costs shall be allocated on the basis of Delivery Entitlement Share. The TSG discussed whether ESA’s current permit activities should be included in this cost category. These are now included as design phase costs and the timing of such activities is at issue.<sup>1</sup> District staff time is currently tracked as part of “Project Management” and will continue to be tracked as such during the construction phase.

### **Other Agency Involvement**

None.

### **Financial Considerations**

The purpose of this agenda is to clarify those items that could be categorized within Environmental Mitigation Construction Cost. No new financial consideration is intended with this agenda item.

### **Results**

In consideration of the above discussion, it is proposed that the Environmental Mitigation Construction Cost component include the activities described in Items 1-9 above.

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<sup>1</sup> Since both design phase costs and Environmental Mitigation Construction Cost component are both shared on the basis of Delivery Entitlement Share, the distinction is moot.